

1 clarify information a child has given you if they're not
2 able to clearly describe things that have happened to
3 them. If they tell you about something that's happened
4 to them, you might use the dolls to help them clarify
5 their description.

6 Q Do you recall if you ever used anatomical dolls
7 in your treatment of Kathryn Spencer?

8 A I don't recall using anatomical doll with
9 her.

10 Q Is there a reason that you would not have used
11 them?

12 A She didn't disclose to me abuse, so it might
13 have been considered leading or suggestive.

14 Q Now, did California, in 1984 and 1985, have a
15 child abuse and neglect reporting act?

16 A Yes, they did.

17 Q And what was your -- what is your general
18 understanding of what that act required of you as a
19 practitioner?

20 A You're required to report abuse; physical,
21 sexual neglect; mistreatment of a child.

22 Q Do you recall if you ever made such a report in
23 California about Kathryn Spencer?

24 A I don't recall making any report about her.
25 No.

1 Q And is it your understanding under the child
2 abuse and neglect reporting act in California that you
3 would have been required to make such a report if
4 Kathryn Spencer had divulged sexual abuse to you?

5 A Yes.

6 MR. FREIMUND: Objection. Leading. Calls for
7 a legal conclusion.

8 Go ahead and answer.

9 THE COURT REPORTER: I'm sorry, Counsel.
10 Who -- what was your name?

11 MR. FREIMUND: That was Jeff Freimund. I
12 objected. It was leading and calls for a legal
13 conclusion.

14 But go ahead and answer.

15 BY MS. ZELLNER:

16 Q Yeah. You can answer with that objection.

17 A I'm sorry. What was the question again?

18 MS. ZELLNER: Could you read the question back,
19 please.

20 THE COURT REPORTER: Gentlemen, please state
21 your name prior to making your objection. Thank you.

22 (Record read.)

23 BY MS. ZELLNER:

24 Q Do you have any recollection of discussions
25 with anyone in law enforcement about Kathryn Spencer?

objection
leading
&
calls
for
legal
conclusion

Response
-Not a legal
conclusion;
it is her
understanding
of what she
was obligated
to do at the
time

Deposition of Ann Link, Ph.D.

SPENCER VS. PETERS

1 A I have a vague recollection of talking to
 2 someone in law enforcement and informing them that
 3 Kathryn had not disclosed abuse information to me.

Plaintiff

4 Q And do you recall who the person or persons
 5 were that you spoke to?

objects to
lines 10-13
based on

6 A I do not.

motion in
limine #13,

7 Q Do you recall the time frame of when you might
 8 have been contacted by law enforcement?

dkt. 202

at 15

(seeking to
bar testimony
related to

9 A I don't recall a specific date. No.

May 9
interviews;

10 Q Do you recall having any discussion with a
 11 prosecutor or -- and another attorney about
 12 Kathryn Spencer's treatment with you?

if motion is denied,
Plaintiff reserves
right to supplement
highlighting.

13 A I don't recall that. No.

14 Q All right. Now, if we could look at the
 15 different exhibits for today's deposition, I want to
 16 start with Plaintiffs' Exhibit 1.

17 (Plaintiffs' Exhibit 1 was previously marked
 18 for identification and is attached hereto.)

19 BY MS. ZELLNER:

20 Q And tell me, Doctor, when you have that exhibit
 21 in front of you.

22 A I have it in front of me.

23 Q Do you recognize your signature on this exhibit
 24 on page -- it's page 3?

25 A Yes.

obj. filed 12/17/13
 in response to
 motion in limine
 #13

see
defendant's
response
to pitfs
mil #13

1 Q And does this -- what do you understand this
2 document to be?

3 A This is an affidavit.

4 Q And do you understand that this affidavit is
5 made under penalty of perjury?

6 A Yes.

7 Q And did you have this affidavit notarized?

8 A No.

9 Q Is it notarized?

10 A I'm sorry. Which one are we talking about?

11 Q I'm talking about Exhibit 1. There's a notary
12 on it on page --

13 A Okay. Oh. I'm sorry. Yes. I see that.

14 Q Page 4. Do you recall having the affidavit
15 notarized?

16 A Yes.

17 Q Okay. Now, I want to direct you -- is the
18 affidavit true and correct to the best of your
19 knowledge?

20 A Yes.

21 Q I want to direct your attention to
22 Plaintiffs' Exhibit 2.

23 (Plaintiffs' Exhibit 2 was previously marked
24 for identification and is attached hereto.)

25 THE WITNESS: I have that. Yes. Wait.

Response
-Setting
foundation
for
authentica
tion; no out
of out of
court
statement
introduced

Response - Id.

objection
hearsay
and
cumulative

1 BY MS. ZELLNER:

2 Q Yeah.

3 A Oh, yeah.

4 Q And identify this document for the record.

5 A This is a letter from me to Ms. Zellner stating
6 that I can't disclose whether I had treated
7 Kathryn Spencer or not and would need a release of
8 information or a valid court order to talk about it.

9 Q And then that's your signature on the letter?

10 A Yes.

11 Q And it was sent, I believe, on
12 November 30, 2012.

13 A Yes.

14 Q And then if we turn to the next page, which is
15 Plaintiffs' Exhibit 3, could you identify that document
16 for the record.

17 (Plaintiffs' Exhibit 3 was previously marked
18 for identification and is attached hereto.)

19 THE WITNESS: Authorization for Release of
20 Information.

21 BY MS. ZELLNER:

22 Q And what's your understanding of the purpose of
23 this document?

24 A It was authorizing -- it was an authorization
25 to discuss over the telephone with Kathleen Zellner the

1 case -- my memories of Kathryn Spencer.

2 Q And do you recall that conversation? For the
3 record, I'll say with Kathleen Zellner.

4 A Over the telephone?

5 Q Yes.

6 A Yes.

7 Q And do you remember approximately when that
8 conversation occurred? I think you got the release on
9 December 10th.

10 A I don't recall. Just a couple of days, I
11 guess.

12 Q All right. And do you remember in that
13 conversation what was discussed about Kathryn Spencer's
14 treatment by you in 1984 and 1985?

15 A Well, I believe that I was asked if I
16 remembered the case and what I remembered about it, and I
17 said that I did remember treating Kathryn Spencer; that
18 she was around 5 years old and came in for alleged sexual
19 abuse.

20 Q Did you discuss in that conversation whether
21 you had any of Kathryn Spencer's records?

22 A Yes. I said that I did not have records but
23 that I had an independent recollection of the case.

24 Q And in that conversation, did you provide
25 information to Ms. Zellner about whether or not

1 Kathryn Spencer had divulged sexual abuse to you?

2 A I believe I did.

3 Q Do you remember anything else about the
4 conversation?

5 A I had several conversations with Ms. Zellner,
6 so I don't remember exactly what I said in each one
7 but...

8 Q Okay.

9 A I don't know. She may -- I may have asked
10 for -- she may have told me about some background about
11 the case.

12 Q Anything else that you remember? And we're
13 just at this point talking about the first conversation.

14 A No. I don't remember exactly.

15 (Plaintiffs' Exhibit 4 was previously marked
16 for identification and is attached hereto.)

17 BY MS. ZELLNER:

18 Q Okay. If we look at the next page,
19 Plaintiffs' Exhibit 4, do you recognize this email?

20 A Yes.

21 Q And what was your understanding of the purpose
22 of this email?

23 A To let me know that there was going to be some
24 information sent that I could review and sign with a
25 notary.

1 Q Does the email indicate it was sent to you in
2 Word format so you could make any changes or deletions?

3 A Yes.

4 Q Now, if we look at -- within that same group
5 exhibit, Plaintiffs' Exhibit 4, there is an affidavit
6 then that was sent to you. If you can, go to that first
7 affidavit.

8 A Is that right after that?

9 Q Yeah. It's unsigned.

10 A Yes.

11 Q Okay. And if I could direct you to
12 paragraph 6, paragraph 6 for the record states, "After
13 meeting with Kathryn's mother, I met privately with
14 Kathryn on multiple occasions. During my sessions with
15 Kathryn, she manifested a high level of anxiety. For
16 example, I recall Kathryn balled up on the floor. I
17 utilized play therapy, a form of psychotherapy, in an
18 attempt to communicate with Kathryn and assess her
19 underlying psychological state."

20 Do you see that paragraph?

21 A Yes.

22 Q If we look back at the affidavit that you
23 signed on December 13th, if you could go to paragraph 6,
24 the last sentence of paragraph 6 --

25 A Is this Exhibit 1?

1 Q Yeah. Exhibit 1.

2 A Yes. I see.

3 Q So paragraph 6 has been modified.

4 Do you see that?

5 A Yes.

6 Q And it states in the last sentence of
7 Exhibit 1, paragraph 6, "I utilized play therapy, comma,
8 form of psychotherapy, comma, to reduce anxiety, comma,
9 encourage communication, and provide healthy coping."

10 Do you see that --

11 A Yes.

12 Q -- language in Exhibit 1, paragraph 6?

13 A Yes. Excuse me. It says, "Promote healthy
14 coping." Yes. I see that.

15 Q And was that sentence modified by you?

16 A Yes, it was.

17 Q And did you modify the sentence to better
18 explain what play therapy was?

19 A Yes. I felt that was a better description of
20 play therapy.

21 Q And then if we look at paragraph 8 in the
22 original affidavit sent to you, it states for the record,
23 "During that time period, I never used dolls to elicit
24 information from a child regarding possible abuse because
25 in my view some dolls are suggestive, period. I did not

1 use any dolls during my sessions with Kathryn, and
2 Kathryn never demonstrated any abuse to me using dolls."

3 Was that -- did I correctly read what was in
4 paragraph 8 of the first affidavit that my office sent to
5 you?

6 A Yes.

7 Q And then in your final affidavit, the one that
8 you actually signed, that's been modified to read, During
9 play session with Kathryn, I never used play therapy
10 supplies, including toys, dollhouse dolls, and art
11 materials. I used play therapy supplies, including toys,
12 dollhouse dolls, and art materials. Kathryn did not
13 demonstrate any abuse to me using play therapy supplies.

14 Is that -- was that modification done by you to
15 the original affidavit that we sent you?

16 A Yes.

17 Q And what was the purpose of modifying the
18 original paragraph 8?

19 A It was my intention to more correctly say what
20 I did do in the therapy sessions with Kathryn.

21 Q And you had, in fact, used -- I think you
22 called them dollhouse dolls --

23 A Yes.

24 Q -- with Kathryn?

25 A Yes.

1 Q Okay.

2 A Regular play dolls that don't have anatomical
3 parts.

4 (Plaintiffs' Exhibit 5 was previously marked
5 for identification and is attached hereto.)

6 BY MS. ZELLNER:

7 Q Okay. And then in -- if we look at
8 Group Exhibit 5, the first note email that's sent to you,
9 that's December 12 at 3:50 p.m.

10 Do you see that?

11 A Yes.

12 Q And it indicates to you that there's -- "Please
13 sign Kathryn's authorization and your revised declaration
14 attached." That was sent at 3:50 p.m.

15 And then at 5:26 p.m., another note was sent
16 saying, "Sorry about the confusion. Please find your
17 revised declaration attached."

18 Do you remember receiving that document?

19 A Yes.

20 Q Okay. And then you did receive then an
21 authorization, which is within that Group Exhibit 5.
22 It's actually in like five or six pages.

23 You received an authorization of -- again, from
24 Kathryn Spencer, authorizing you to release information
25 about her for purposes of this deposition; is that

1 correct?

2 A Yes.

3 (Plaintiffs' Exhibit 6 was previously marked
4 for identification and is attached hereto.)

5 BY MS. ZELLNER:

6 Q Okay. And then on December 12th, 2012, in
7 Group Exhibit 6, documents were sent to you from my
8 office for your review; is that correct?

9 A Yes.

10 Q I want to focus on certain parts of these
11 documents in Group Exhibit 6, and so if you could turn to
12 the second page, at the top it says, "James M. Peters,
13 11/8/12," page 97, and it also has the name "Johnson" at
14 the top.

15 Do you see that?

16 A I do.

17 Q Okay. Did you have the opportunity to read
18 this document prior to sending your affidavit back on
19 December 13th?

20 I'm sorry. I didn't hear you. I think -- do
21 you see the documents?

22 A I see the document. Yes. I was just trying to
23 figure out --

24 Q If we go to --

25 A What was the --

1 Q -- page 97 of the document, did you see
2 reference in Mr. Peters' deposition on page -- it starts
3 actually on page 97, but at the top of 98, did you see
4 reference to your name in Mr. Peters' dep?

5 A Yes.

6 Q And if we look at page 98, at 9 through 22,
7 Mr. Peters states at line 5 -- or the question at line 5
8 is "November 1st was the first time you say -- you say
9 Katie Spencer reported it. Correct?

10 "ANSWER: I didn't say that.

11 "QUESTION: To Ann Link.

12 "ANSWER: Oh. All I know is what Ann Link told
13 me. I don't know about anything else." That's at line 9
14 and 10.

15 "QUESTION: "Okay. And that first revelation
16 that you're talking about came to Ann Link as Ann Link
17 told you on November 1st of 1984. Correct?

18 "ANSWER: Just to be clear, there had been
19 prior revelations to Shirley Spencer and to
20 Sharon Krause. The first revelation.

21 "QUESTION: I'm just talking about Ann Link.

22 "ANSWER: As far as I know, when Mr. Rulli and
23 I talked to Ann Link in Sacramento, she told us that
24 Katie had disclosed to her sexual abuse by Ray.
25 Described it with anatomical dolls, including fellatio --